



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

REZONING APPLICATION ANALYSIS

ZONING CASE #: Z2013-19

LEGISTAR #: 20130732

PROPERTY OWNERS:

Gil Shir
6320 Riverside Drive
Atlanta, GA 30328

Marguerite Wilder
355 Sweet Spring Branch
Clarksville, GA 30523

Juanita Miller Thomas
428 Henry Drive
Marietta, GA 30064

APPLICANT: **Elliott Hollander**
5555 Glenridge Connector N. E. #200
Atlanta, GA 30342

PROPERTY ADDRESS: 900 Burnt Hickory Road, 910 Burnt Hickory Road, 920 Burnt Hickory Road, 928 Burnt Hickory Road, 879 Polk Street & 941 Polk Street.

PARCEL DESCRIPTION: Land Lots 12240 and 03230, District 16, Parcels 0190, 0340, 0410, 0450

AREA: 3.974 ac. **COUNCIL WARD:** 4

EXISTING ZONING: OI (Office Institutional), RA-8 (Single Family Residential--Attached), R-1 (Single Family Residential/Agriculture 1 unit/acre), CRC (Community Retail Commercial)

REQUEST: OI (Office Institutional)

FUTURE LAND USE

RECOMMENDATION: NAC (Neighborhood Activity Center) & MDR (Medium Density Residential)

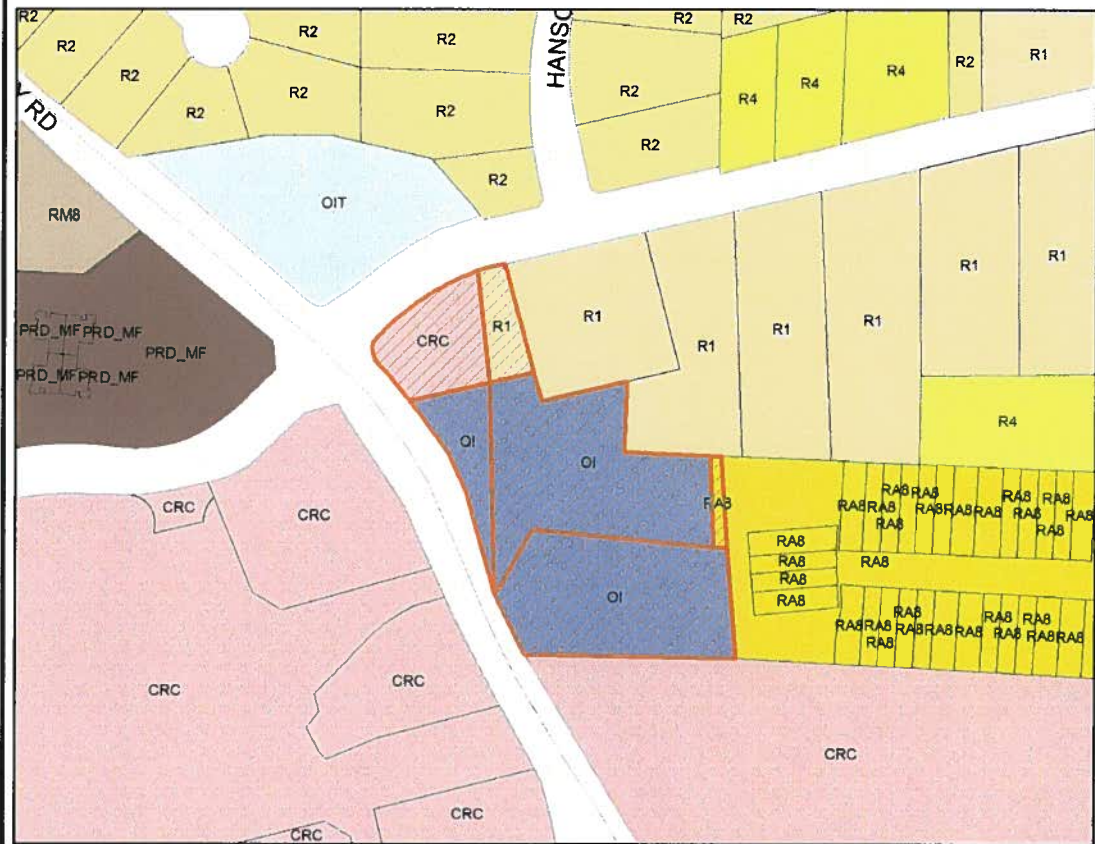
REASON FOR REQUEST: Elliott Hollander is requesting the rezoning of approximately four (4) acres located at the corner of Burnt Hickory Road and Polk Street for the purpose of constructing an assisted living facility with 92 beds.

PLANNING COMMISSION HEARING: Tuesday, August 6, 2013 – 6:00 p.m.

CITY COUNCIL HEARING: Wednesday, August 14, 2013 – 7:00 p.m.

MAP

City of Marietta Area Zoning Map

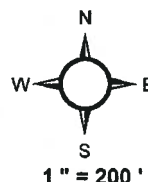


Zoning		District	Land Lot	Parcel	Current Zoning	Proposed Zoning
SINGLE FAMILY RESIDENTIAL	R-1 One Unit/Acre	20	03230	0450	CRC	OI
	R-2 Two Unit/Acre					
	R-3 Three Unit/Acre					
	R-4 Four Unit/Acre					
ATTACHED FAMILY RESIDENTIAL	RA-4 Four Unit/Acre	16	12240	0190	OI	OI
	RA-6 Six Unit/Acre					
	RA-8 Eight Unit/Acre					
	PRD(SF) Planned Residential Dev.					
MULTI FAMILY RESIDENTIAL	MHP Mobile Home Park	16	12240	0410	OI	OI
	RM-8 Eight Unit/Acre					
	RM-10 Ten Unit/Acre					
	RM-12 Twelve Unit/Acre					
PRD(MF) Planned Residential Dev.		16	12240	0340	RA-8	OI

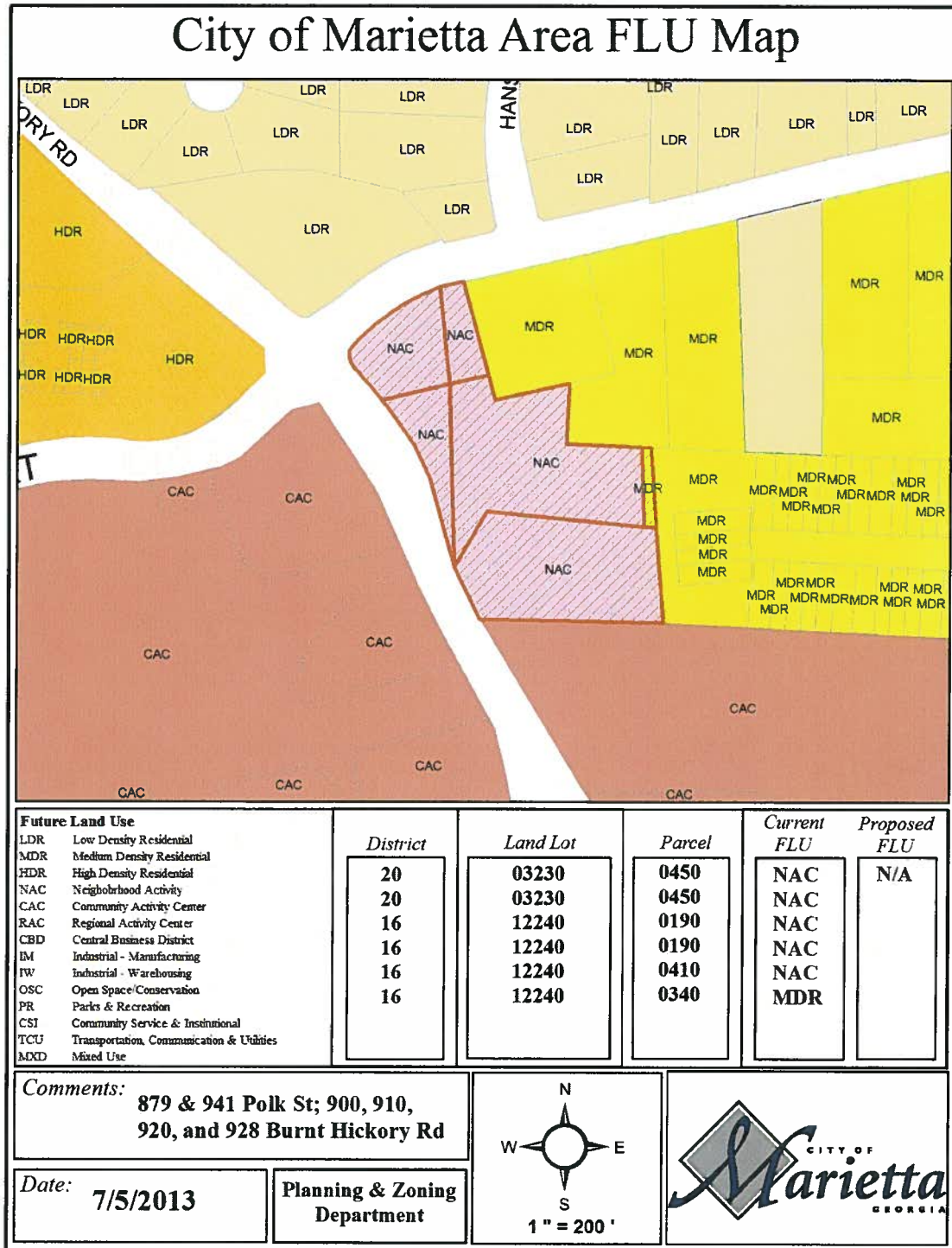
Comments: 879 & 941 Polk St; 900, 910, 920, and 928 Burnt Hickory Rd

Date: 7/5/2013

Planning & Zoning
Department



FLU MAP



PICTURES OF PROPERTY



Property frontage along Burnt Hickory Rd



Property frontage along Polk Street

STAFF ANALYSIS

Location Compatibility

Elliott Hollander is requesting the rezoning of approximately four (4) acres located at the corner of Burnt Hickory Road and Polk Street for the purpose of constructing an assisted living facility. The properties are currently zoned OI (Office Institutional), CRC (Community Retail Commercial), R-1 (Single Family Residential/Agriculture – 1 unit / acre), and RA-8 (Single Family Residential – Attached). A similar request was requested, and approved by City Council, by a different applicant in 2008 (see *History of Property*).

Mountain View Townhomes, zoned RA-8, and properties zoned R-1 abut the subject property to the east. Across Polk Street to the north is a vacant parcel zoned OIT (Office Institution Transitional). A car wash, bank, and entrance to a shopping center, all zoned CRC, are located across Burnt Hickory Road to the west. Immediately to the south is the Burnt Hickory Crossing Shopping Center, also zoned CRC.

Use Potential and Impacts

The applicant's proposal consists of a 76,000 square foot assisted living facility located in the central part of the subject area, according to the site plan submitted with the rezoning application and dated June 25, 2013. The parking area, dumpsters, and detention pond are all shown as being located in the southern portion of the site, between the facility and the shopping center on Whitlock Avenue. This orientation will isolate the most intense activities furthest from the residential properties to the northeast and east.

To help minimize any negative effects on the surrounding residences, the OI zoning district requires an undisturbed thirty (30) foot buffer along any single family residential district. This buffer is required in addition to the setback. For most of the required buffer areas on the site, the applicant is showing the full thirty (30) foot, undisturbed buffer made up of the existing, natural vegetation. However, the applicant is proposing to disturb and replant the buffer to the east against the Mountain View Townhomes according to the Conceptual Buffer Planting Plan dated March 13, 2008 (attached). This buffer plan shows three staggered rows, 10 feet on center, of Cryptomeria and Nellie R. Stevens Holly. As a result, the following variance would be necessary:

- Variance to allow the buffer along the eastern property line adjacent to Mountain View Townhomes be disturbed and replanted according to the Conceptual Buffer Planting Plan dated March 13, 2008. [§710.05 (A)]

The applicant is also asking for a reduction in the rear setback from thirty five (35) feet to twenty (20) feet. Although this request appears unnecessary because the building is not shown as being within the rear setback on the submitted plan, this variance is being requested to allow flexibility in the final placement of the building during the design phase.

It is also worth noting that the site plan does not show a reduction in the rear setback against the Mountain View Townhomes to the east. Should this rezoning request be approved as shown on the submitted site plan, the following variance would be necessary:

- Variance to reduce the rear yard setback against 875 & 931 Polk Street from 35' to 20.' [§708.23 (H)]

The site plan also shows the front-most corner of the building, near Burnt Hickory Road, as encroaching into the front setback. It is unclear from the drawing whether this is just a projection of the roof eave, which would be permitted, or encroachment of the building walls into the setback, which would require a variance.

Assisted living facilities are permitted in the OI zoning district at a density of twenty (20) beds per acre. The subject property's 3.974 acres would allow a seventy nine (79) bed facility. However, the applicant's description of the project states that the facility will "contain 67 units with between 87-92 total beds with a unit mix of a minimum of 62 Assisted Living beds and 25 Memory Care beds." The proposal approved in 2008 granted a variance allowing a facility with up to ninety six (96) beds. However, should this property be rezoned as requested, the following variance would be necessary in order to construct the project as submitted:

- Variance to increase the allowable number of beds from seventy nine (79) beds to ninety two (92) beds. [§708.19 (B.19.b.)]

The plans also show a gazebo structure in the northwestern leg of the project area. Accessory structures in OI are not permitted to be any closer to the road than the principal building. Since the gazebo is closer to Polk Street than the main facility building, the following variance would be required to allow the proposed placement of the gazebo:

- Variance to allow an accessory structure to be closer to the road than the principal building. [§708.19 (F.1.)]

Marietta's Comprehensive Plan has designated the future land use (FLU) for all these parcels, except for 879 Polk Street, as Neighborhood Activity Center (NAC). Properties with a FLU of NAC are intended for uses that satisfy the needs of neighborhood residents and businesses and should be "small-scale commercial establishments that contain buildings less than 10,000 square feet in size." Since OI is not listed as a compatible zoning category for NAC, and the proposed facility will exceed 10,000 square feet, this proposal does not meet the intent of the Comprehensive Plan.

Environmental Impacts

The site is undeveloped, although the central area of the site was cleared at some point in the past. The proposed development will significantly increase the percentage of impervious area on the site, as it currently exists. There does not appear to be any major slopes or floodplain on the property. It is unlikely that any endangered species or wetlands currently exist on the property.

Economic Functionality

The two parcels on Polk Street - 910 Burnt Hickory Rd (R-1) and 941 Polk Street (CRC) – are likely unbuildable due potential roadway improvements and the lot line configuration resulting from the 2008 rezoning. To be of use, these two parcels would likely have to be combined with adjacent parcels. The three OI parcels (900, 920, & 928 Burnt Hickory) are bound to the specific uses, conditions, and site configuration proposed in the 2008 rezoning.

Infrastructure

The Department of Public Works also has the following comments that may impact the development of this site as planned. More detailed comments are listed in the appendix following this report.

- There does not appear to be adequate room for proper erosion and sediment control during construction. This will be reviewed in detail at Site Plan Review stage, and will likely result in design change.
- The Stormwater Basin at the southeast building corner, as shown on the plan, depicts the basin in conflict with the building, paving, and walkway. It appears that the basin was placed “where there was room”, instead of a good design position.
- A Quit Claim Deed is required to increase the Burnt Hickory Road and Polk Street Rights-Of-Way as determined by the Public Works Director for the accel lane, decel lanes and sidewalk along both roads.

This development stands to impact the nearby roadways that already experience severe traffic bottlenecks in the late afternoon and evening. Should the rezoning and variances be granted as requested, 100 beds can be expected to generate 274 trips per day. The zoning ordinance also requires all parking spaces to be at least 9' x 20', exclusive of curb and gutter.

The site plans indicate that the entire development will be fenced. It is unclear whether the entrance will be gated. If so, the gate will be required to be at least fifty (50) feet from the right of way, contain an adequate turnaround, and be subject to the conditions specified under Section 726.03. It is also worth noting that the decorative metal fence shown along the road frontages must be set back from the right-of-way at least two (2) feet and may not exceed a height of four (4) feet.

Although not shown on the plans, a six (6) foot wide sidewalk with two (2) foot grass strip will be required along Burnt Hickory Road and Polk Street.

History of Property

In April 2008 the majority of the subject property was rezoned (Z2008-01) to OI with stipulations and variances for an assisted living facility containing ninety six (96) beds. The ordinance, stipulations, and variances approved in 2008 are attached for reference.

Other Issues

Approximately half of the subject property lies within the Commercial Corridor Design Overlay District – Tier B, which extends 750 feet to either side of Whitlock Avenue. The follow items as they pertain to the Overlay may affect the development of this site:

- The Overlay requires a maximum front building setback of 75 feet from every roadway. It appears that only one “wing” will satisfy that requirement as the building is situated on the submitted plan. The building would need to be oriented towards the corner of Burnt Hickory Road and Polk Street in order to satisfy this requirement. This would likely result in a parking lot towards the rear, which may impact the residential neighbors to the east.
- Building design elements, both optional and mandatory, are required for new buildings within the Overlay district per Section 712.09 (G.3). No architectural elevations accompanied the rezoning application.
- A six-foot sidewalk is required to allow for safe and efficient pedestrian flow in front of all development projects in the Tier B zone.

Since this development is not directly located along the principal thoroughfare of the Overlay and may not be within direct sight of Whitlock Avenue, the Director of Development Services is extended the administrative authority to waive design regulations.

ANALYSIS & CONCLUSION

Elliott Hollander is requesting the rezoning of 3.9 acres located at the corner of Burnt Hickory Road and Polk Street for the purpose of constructing an assisted living facility with 92 beds. The properties are currently zoned OI, CRC, R-1, and RA-8. A similar request was requested and approved by City Council by a different applicant in 2008. Mountain View Townhomes, zoned RA-8, and other residential properties that are zoned R-1, abut the subject property to the east. Across Polk Street to the north is a vacant parcel zoned OIT. A car wash, bank, and entrance to a shopping center, all zoned CRC, are located across Burnt Hickory Road to the west. Immediately to the south is the Burnt Hickory Crossing Shopping Center, also zoned CRC.

The following variances will be necessary in order to proceed with the design submitted by the applicant:

1. Variance to allow the buffer along the eastern property line adjacent to Mountain View Townhomes to be disturbed and replanted according to the Conceptual Buffer Planting Plan dated March 13, 2008. [§710.05 (A)]
2. Variance to reduce the rear yard setback against 875 & 931 Polk Street from 35' to 20.' [§708.23 (H)]
3. Variance to allow an accessory structure to be closer to the road than the principal building. [§708.19 (F.1.)]
4. Variance to increase the allowable number of beds from seventy nine (79) beds to ninety two (92) beds. [§708.19 (B.19.b.)]
5. Variance to replace the setbacks specified under the Commercial Corridor Design Overlay – Tier B [§712.09 (G.2.b.) (i.-iii.)] with the underlying zoning district's setback requirements [§708.23 (H)].
6. Variance to waive the building design elements (optional and mandatory) of the Commercial Corridor Design Overlay – Tier B. [§712.09 (G.3.)]

The future land use (FLU) for all these parcels, except for 879 Polk Street, is Neighborhood Activity Center (NAC), which is intended for uses that satisfy the needs of neighborhood residents and businesses and should be "*small-scale commercial establishments that contain buildings less than 10,000 square feet in size.*" As OI is not listed as a compatible zoning category for NAC, and the proposed facility will exceed 10,000 square feet, this proposal does not meet the intent of the Comprehensive Plan.

Prepared by: Shelby Little ps

Approved by: Rusty Roth



DATA APPENDIX

CITY OF MARIETTA - WATER

Is a water line adjacent to the property?	Yes
If not, how far is the closest water line?	n/a
Size of the water line?	12-inch
Capacity of the water line?	Flow test required
Approximate water usage by proposed use?	Not provided

CITY OF MARIETTA - SEWER

Is a sewer line adjacent to the property?	No
If not, how far is the closest sewer line?	+/- 550 feet
Size of the sewer line?	10-inch
Capacity of the sewer line?	Available
Estimated waste generated by proposed development?	A.D.F Peak Not provided
Treatment Plant Name?	Cobb County
Treatment Plant Capacity?	Cobb County
Future Plant Availability?	Cobb County

DATA APPENDIX CONTINUED

DRAINAGE AND ENVIRONMENTAL CONCERNS

Does flood plain exist on the property?	No
What percentage of the property is in a floodplain?	N/A
What is the drainage basin for the property?	Ward Creek
Is there potential for the presence of wetlands as determined by the U.S. Environmental Protection Agency?	No
If so, is the use compatible with the possible presence of wetlands?	-----
Do stream bank buffers exist on the parcel?	No
Are there other topographical concerns on the parcel?	No
Are there storm water issues related to the application?	Drainage from site facilities to existing basin on shopping center property
Potential presence of endangered species in the area?	No

Transportation

What is the road effected by the proposed change?	Burnt Hickory Road Polk Street
What is the classification of the road?	Burnt Hickory Road: Collector Polk Street: Collector
What is the traffic count for the road?	Burnt Hickory Road: 15,955 Polk Street: no GA DOT data available
Estimated number of cars generated by the proposed development?	Unknown from use data submitted
Estimated number of trips generated by the proposed development?	274 / 5 at peak hour (Assumed 100 rooms with 1 occ. bed / room **)
Do sidewalks exist in the area?	Yes, with some proposed in very near future in upcoming projects
Transportation improvements in the area?	No
If yes, what are they?	

**** Note: based upon 2.74 per occ. bed for Assisted Living, with 0.22 per occ. bed at peak hour. Accurate data not available.**

- Site plans will be required for construction (see Site Plan Package checklists). Site plans must include, parking, driveways, streets, stormwater management, stormwater quality, 10% downstream analysis, and any other applicable improvements required by City Code and Georgia Stormwater Management Manual. Additional comments will be made at time of site plan submittal. There can be no point discharge onto adjacent property which is not into a stream, defined drainageway, or storm sewer. This appears to be a concern near the southeast property corner. Discharge will not be allowable at the property line. If easements are required for drainage through adjacent property, then the owner is to obtain. Wall plans must approved by Chief Building Inspector.
- There does not appear to be adequate room for proper erosion and sediment control during construction. This will be reviewed in detail at Site Plan Review stage, and will likely result in design change along south property line.
- The proposed Sediment/Stormwater Basin at the southeast property corner, as shown on the plan, depicts the basin was placed "where there was room", instead of a good design position. Outfall shall be to the existing basin on the shopping center property.
- ***NOTE: Comments which follow address Polk Street improvements. If the properties along Polk Street are not a part of this proposed tract (other than at the northwest property corner), then the comments do not apply to this rezoning. Only those comments pertaining to Burnt Hickory Road will then be applicable. Comments regarding Polk Street have been included from data provided in last rezoning request.***
- Additional right-of-way necessary for Burnt Hickory Road to line up with Whitlock Retail to the South. Accel lane is required to connect with Right Turn Lane at Polk Street. Lane stripping is to delineate project accel lane from turn lane per AASHTO SU-30 and ITE requirements.
- An additional lane will be constructed along the south side of Polk Street. Plans should include this and provide additional R.O.W. as necessary for the extra lane, 2' grass strip and 6' sidewalk. This may affect the replanted buffer.
- Sidewalk to line up with Whitlock Retail shopping center to the South.
- Sidewalk to extend along entire frontages of Burnt Hickory Road and Polk Street (if applicable).
- Additional Right-Of-Way may be required for new lane along Burnt Hickory Road and at northwest corner of property for proper turning radius as will be required by the Public Works Director. The R.O.W. at the intersection is to be mitered in the site plan stage. The plan shows a mitre, however it does not depict R.O.W. to be dedicated to the City. On both Polk Street and Burnt Hickory Road frontages there will be two 12' lanes, curb and gutter, 2' grass strip and 6' sidewalk. The left turn lane on Burnt Hickory is in addition to the above. 6' Sidewalk and Handicap Ramps are required along both roads. Stop Signs and handicap ramps to be provided at all crosswalks.

- The R.O.W. along the southwestern property corner must be increased to the property line with the shopping center (eliminate the cutout of 97.87 feet). This may adversely impact the depicted design of the entrance.
- A Quit Claim Deed is required to increase the Burnt Hickory Road and Polk Street Rights-Of-Way as determined by the Public Works Director for the accel lane, decel lanes and sidewalk along both roads.
- Design access for site using AASHTO "SU-30" design standard for Fire Access. See Site Plan Checklists.
- The proposed detention facility is open. Adequate safety measures must be taken for residents and visitors. There must be a gate installed in the fence which surrounds the facility to allow access for maintenance.
- The outlet for the basin must be brought to the southwest property corner to the existing drainage and connected into the detention basin on the shopping center parcel (not allowed to erode down slope) with the property owner's permission.
- The grade at the entrance is to be per Ordinance and ITE standards. Proper vertical and horizontal curves are required. The accel / decel lanes shall be exclusive of the vertical curve for the entrance roads / drives.
- All roads, including Private, are to be per City Standards, and inspected during construction. Designed to AASHTO standards using the SU-30 vehicle with a minimum 25' or greater radii on curves.
- Parking spaces to be designed per ITE "Level A" standards exclusive of curb and gutter. Minimum travelway is 20' plus curb and gutter (24' back of curb to back of curb). Minimum parking space dimension is 9' x 20' plus curb and gutter. Dimensions shown on plan at parking corners are inadequate. Double loaded spaces to be a minimum of 60' plus curb and gutter.
- Stop signs to be located at all crosswalks for pedestrian safety.
- 5' sidewalk minimum and 2' grass strip will be required throughout site and 6' wide with 2' strip along Burnt Hickory Road and Polk Street.
- An existing sedimentation basin on 900 Burnt Hickory Road parcel must be accounted for. Existing grades are different from Cobb GIS data.
- The property will be fenced per the submission, with gated entrance. (see next page)

**Memorandum
Gated Entrances**

- The proposed gate poses potential problems for emergency vehicles and City waste collection. See comments on attached page (Notes to be added to plans and language to be added to Plat, Deed, and Restrictive Covenants concerning proposed Entrance Gate from Burnt Hickory Road).
- The Entrance Gate shall be located at least fifty feet (50') from the Burnt Hickory Road R.O.W. (proposed R.O.W. if different from existing)
- The Entrance shall be made adequate to allow turn-around of a passenger car ("P" under AASHTO standards) with a median in the event a vehicle accesses the entrance but must turn-around and leave, and still allow the stacking of two vehicles behind.

Notes to be added to plans and language to be added to Plat, Deed, and Restrictive Covenants concerning proposed Entrance Gate from Burnt Hickory Road:

1. Developer, his successors in title and all subsequent owners shall be liable in the event the City or other emergency vehicles must "crash" the gate to obtain entry for emergency purposes. Such liability shall include damage to the gate and accompanying equipment as well as any and all damage to the emergency vehicle or personnel. The decision on whether or not to crash the gate shall be left within the sole discretion of the driver of the emergency vehicle.
2. Neither the City nor any other emergency provider shall be liable to the owner, occupant, employee, invitee, guest or purchaser for delay caused by not being able to obtain access to any person or home needing emergency service of said gated community.
3. Developer and all subsequent owners shall and do hereby indemnify, release and hold harmless the City of Marietta, its Mayor, its elected officials, its employees, its agents and all emergency providers and their agents from any and all claims of any parties arising out of delays or non-entry into the gated community. This indemnity, release and hold harmless shall apply to claims of all parties, including occupants of the subdivision, their guests, and any and all persons located within the gated community.
4. Developer and all subsequent owners shall allow the City and other vehicles immediate access on a twenty-four (24) hour basis to the gated community. Neither the City nor any emergency provider shall be liable in the event that the access code should become available to other parties.
5. This and the matters contained herein shall be binding upon any subsequent owners and / or association formed by the developer or the owners. All property held by the owners / association shall be subject to this agreement and all property held by the owners / association shall be subject to the covenants as stated.
6. The above covenants shall be placed on the approved plat recorded on the deed records of Cobb County, Georgia, and shall be placed in any by-laws of the owners / association and shall be referenced in each deed of conveyance from the developer to each subsequent purchaser.
7. Developer and all subsequent owners shall arrange for access for all non-emergency vehicles, such as garbage pick-up, cable and other utility service.



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

EMERGENCY SERVICES

Nearest city or county fire station from the development?	Marietta Station 53
Distance of the nearest station?	.3 miles
Most likely station for 1 st response?	Marietta Station 53
Service burdens at the nearest city fire station (under, at, or above capacity)?	None

MARIETTA POWER - ELECTRICAL

Does Marietta Power serve this site? Yes _____ No X

If not, can this site be served? Yes X No _____

What special conditions would be involved in serving this site?

These properties are located in a Cobb EMC and Marietta Power corridor. Would the applicant be willing to choose Marietta Power as the electrical service provider?

Additional comments:

